

INITIATIVE 176

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 176 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to jurisdiction over juveniles; reenacting and
2 amending RCW 13.04.030; adding a new section to chapter 13.40 RCW; and
3 creating a new section.

4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 13.40 RCW
6 to read as follows:

7 A juvenile who has reached his or her fourteenth birthday and is
8 charged with a crime while in the possession of a weapon shall be tried
9 in the jurisdiction of adult criminal court and, if found guilty,
10 sentencing shall be based as though the crime had been committed by an
11 adult under the same circumstances.

12 For the purpose of this section, a weapon is defined as a firearm,
13 pellet gun, dagger, sword, knife, or other cutting or stabbing
14 instrument, club, or any other weapon capable of producing bodily harm.

15 For the purpose of this section, jurisdiction in adult criminal
16 court shall pertain to length and scope of sentencing and does not
17 require incarceration in an adult jail or prison.

Sec. 2. RCW 13.04.030 and 1995 c 311 s 15 and 1995 c 312 s 39 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, the juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110; or

(ii) Adult criminal court has jurisdiction pursuant to section 1 of this act; or

(iii) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

~~((+iii+))~~ (iv) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

1 (~~((iv))~~) (v) The juvenile is sixteen or seventeen years old and the
2 alleged offense is: (A) A serious violent offense as defined in RCW
3 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense
4 as defined in RCW 9.94A.030 committed on or after June 13, 1994, and
5 the juvenile has a criminal history consisting of: (I) One or more
6 prior serious violent offenses; (II) two or more prior violent
7 offenses; or (III) three or more of any combination of the following
8 offenses: Any class A felony, any class B felony, vehicular assault,
9 or manslaughter in the second degree, all of which must have been
10 committed after the juvenile's thirteenth birthday and prosecuted
11 separately. In such a case the adult criminal court shall have
12 exclusive original jurisdiction.

13 If the juvenile challenges the state's determination of the
14 juvenile's criminal history, the state may establish the offender's
15 criminal history by a preponderance of the evidence. If the criminal
16 history consists of adjudications entered upon a plea of guilty, the
17 state shall not bear a burden of establishing the knowing and
18 voluntariness of the plea;

19 (f) Under the interstate compact on juveniles as provided in
20 chapter 13.24 RCW;

21 (g) Relating to termination of a diversion agreement under RCW
22 13.40.080, including a proceeding in which the divertee has attained
23 eighteen years of age;

24 (h) Relating to court validation of a voluntary consent to an out-
25 of-home placement under chapter 13.34 RCW, by the parent or Indian
26 custodian of an Indian child, except if the parent or Indian custodian
27 and child are residents of or domiciled within the boundaries of a
28 federally recognized Indian reservation over which the tribe exercises
29 exclusive jurisdiction; and

30 (i) Relating to petitions to compel disclosure of information filed
31 by the department of social and health services pursuant to section 14,
32 chapter 311, Laws of 1995.

33 (2) The family court shall have concurrent original jurisdiction
34 with the juvenile court over all proceedings under this section if the
35 superior court judges of a county authorize concurrent jurisdiction as
36 provided in RCW 26.12.010.

37 (3) A juvenile subject to adult superior court jurisdiction under
38 subsection (1)(e) (i) through (~~((iv))~~) (v) of this section, who is

1 detained pending trial, may be detained in a county detention facility
2 as defined in RCW 13.40.020 pending sentencing or a dismissal.

3 NEW SECTION. **Sec. 3.** The ballot title for this initiative shall
4 be substantially as follows:

5 "Shall juveniles aged fourteen or more charged with a crime while
6 in the possession of a weapon be tried as adults?"

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